



Roderick & Solange MacArthur Justice Center

FOR IMMEDIATE RELEASE
June 20, 2019

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JAIL DATABASE REVEALS ONGOING CRISIS OF LENGTHY PRETRIAL INCARCERATION

*Autistic Jackson County Teenager Remained in Jail for
Nine Months Because He Couldn't Pay Bail But Was Never Indicted*

OXFORD, Miss. – Zach Hill, an autistic teenager arrested on suspicion of burglary in 2018, sat in a Jackson County jail for more than 270 days before his case was presented to a grand jury last month. He was stuck behind bars because he and his family could not afford to pay a bondsman the \$1,000.00 necessary to buy Zach's release from jail after a local judge set bail at \$10,000. He had no driver's license, no vehicle, and no history of violent offenses. When prosecutors finally presented Zach's case to Jackson County grand jurors, they found that there was not enough evidence to return an indictment and Zach was immediately released. He spent his 19th birthday in the Jackson County Adult Detention Center.

Stories like Zach's are not unusual in Mississippi. Despite recent criminal justice reform, new criminal court rules, and successful litigation against numerous Mississippi cities and counties over the last five years claiming widespread illegal incarceration of poor defendants, thousands of people continue to languish in Mississippi's county and regional jails awaiting indictment and trial. That number has increased over the last six months. The Roderick and Solange MacArthur Justice Center at the University of Mississippi School of Law released a new report today identifying more than 5,700 people incarcerated in local jails as of May 2019. Roughly 2,750 of those detainees have been in jail longer than 90 days. More than 800 people have been stuck in county jails over a year. The report captures only a portion of the state's jail population due to inconsistent reporting from counties, meaning that there are even more people jailed across Mississippi, often on minor charges.

The MacArthur Justice Center estimates that Mississippi counties spend at least \$90 million each year on pretrial incarceration. This is the third report on Mississippi's local jail population issued by the MacArthur Justice Center since last April. All three reports can be accessed at www.MSjaildata.com.

Cliff Johnson, Director of the MacArthur Justice Center's Mississippi office, identifies misuse of the money bail system by Mississippi judges as the primary reason so many Mississippians remain in jail awaiting formal charges and trial. "Mississippi is dealing with a crisis of injustice.

In the United States, including in Mississippi, people are innocent until proven guilty. For that reason, the law says that people should not be locked up while they wait for their day in court. Only in the rare case when evidence supports a judicial finding that a person is likely to flee the jurisdiction or hurt someone may a court require people to pay bail in order to be released from pretrial detention.” Johnson says that is not how the system operates in Mississippi. “In Mississippi, nearly all of our judges impose money bail in every single felony case without undertaking any analysis of whether money bail is permitted by law. My sense is that this happens because unlawful ‘automatic money bail’ long ago became an accepted practice that routinely goes unchallenged and because judges are afraid that if a defendant released without paying money bail does something bad, the judge who released that person will be voted out of office – even if the judge’s decision not to require payment for release was entirely appropriate under the law.”

Johnson explained that a number of factors contribute to extraordinarily long pretrial incarceration in Mississippi for those who cannot afford bail. According to Johnson, grand juries meet as seldom as two or three times a year in many of Mississippi’s rural counties, prosecutors often are slow to present cases to the grand jury, there is no limit under Mississippi law on how long a defendant can be held prior to indictment, defense lawyers often ask for trials to be postponed, and the Mississippi Supreme Court rarely enforces Mississippi’s Speedy Trial Act. As a result, Johnson claims that it is not uncommon for a person who is unable to make bail to wait in jail more than two years from arrest until they get their day in court. He estimates that pretrial incarceration costs Mississippi counties \$45 per day for each person detained while awaiting indictment and trial. For each person held two years awaiting trial, a county pays \$32,850.

Collection of data regarding pretrial detention in Mississippi is difficult. The database released today is the product of more than 500 hours of work invested by students at the University of Mississippi School of Law. Students collected jail census reports produced by Mississippi sheriffs and manually entered information for more than 5,700 people in Mississippi jails. Currently, there is no uniformity in the way such information is reported, with some counties reporting their full jail roster while others report only people awaiting trial for felony charges. A bill requiring a uniform statewide system for electronically reporting jail census information was considered by the Mississippi Legislature earlier this year but did not become law.

FWD.us, a bipartisan advocacy organization focused on criminal justice reform, recently provided a grant to support the Center’s ongoing collection and reporting of Mississippi jail census data. According to Laura Bennett, Policy Manager at FWD.us, “This report offers a rare glimpse into Mississippi’s jail system, and the findings are deeply troubling. Thousands of legally innocent people are locked behind bars, often for minor charges, simply because they cannot afford to pay bail, taking them away from their jobs, their families, and their communities. As Mississippi lawmakers set out to tackle the state’s incarceration crisis, pretrial reform must be part of any strategy to safely reduce incarceration.”

Regarding Zach Hill’s case and others like it, Jackson County Public Defender Amanda Galle commented, “The clients we represent are indigent and often unable to make bond. This places our clients in a very difficult position. We take into consideration the effects being incarcerated can have on their lives, their jobs, and their families. This often results in our clients entering guilty pleas to obtain earlier release from jail. Unfortunately, this is rarely a just resolution for our clients and their cases.”



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FOR IMMEDIATE RELEASE

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NEW JAIL DATABASE SHOWS LENGTHY PRETRIAL INCARCERATION CONTINUES IN MISSISSIPPI'S LOCAL JAILS

Database Creators Urge Legislature to Establish Uniform System of Reporting Jail Data

OXFORD, Miss. – The vast majority of the 5,534 men and women detained in local Mississippi jails are not serving sentences for criminal convictions but instead are awaiting their day in court to face charges, and nearly half of the detainees have been in jail for more than 90 days.

Those are some of the findings made available to the public today by the MacArthur Justice Center at the University of Mississippi School of Law. The updated version of the Center's comprehensive database identifies the 5,534 detainees in Mississippi's county and regional jails and can be accessed at www.MSjaildata.com.

The initial version of the database, released in April 2018, identified 7,193 such detainees. In addition to the names of those held in jail, the database provides dates of arrest, the charges against each detainee, the amount of time each person has been in jail, the average length of detention in each Mississippi county, and a comparison of the April and November databases. The information used to create the database was obtained directly from "jail lists" produced by Mississippi sheriffs pursuant to court rules.

Cliff Johnson, Director of the MacArthur Justice Center's Mississippi office, expressed continued concern regarding lengthy pretrial incarceration. "Our database confirms that long-term pretrial incarceration of poor Mississippians, attributable primarily to improper and illegal use of the money bail system, continues to be a significant problem that costs counties millions of dollars," Johnson said. "Our estimate is that Mississippi counties collectively are paying between \$80 million and \$100 million each year to lock up people who have not yet been convicted of any crime."

A search of the database reveals that more than 2,600 people have been detained in local jails for longer than 90 days. Of those, 1,603 have been held for longer than 180 days, 1,035 for longer than 270 days, and 675 for longer than a year.

Johnson explained that lengthy periods of pretrial incarceration is of particular concern in Mississippi and is due, at least in part, to a combination of factors unique to the state. "In

addition to the widespread illegal and improper use of money bail, other significant factors are that grand juries meet infrequently in Mississippi's many rural counties, and that prosecutors across the state, for a variety of reasons, often are slow to present cases to the grand jury," Johnson said. "There is no limit in Mississippi on how long a person can be held prior to indictment, so detainees can wait up to a year or more before even being formally charged with a crime. They wait months after that for their trial date." The MacArthur Justice Center has asked the Mississippi Supreme Court to adopt a rule limiting the amount of time a person can be held in jail prior to indictment, but thus far the Court has declined to do so.

While the updated database shows a 24 percent decrease in the jail population since the April report, there is no clear explanation for the change. "I believe the decrease is attributable, at least in part, to our public disclosure of information regarding the people locked up in our jails coupled with recent litigation in Mississippi reminding judges and other participants in the criminal justice system of what the law says about the proper use of money bail and the illegality of incarcerating poor folks for unpaid fines and fees," Johnson said. "I also credit the new Mississippi Rules of Criminal Procedure adopted by the Mississippi Supreme Court last year."

The newly-released database shows that several counties have reduced their jail population since the Center's first report. Among those are:

- Desoto – from 519 to 219
- Harrison – from 1,106 to 882
- Lauderdale – from 245 to 140
- Lincoln – from 150 to 65

Despite the downward trend, the jail population in some counties increased over the same period. Those include:

- Hancock – from 124 to 185
- Hinds – from 625-667
- Leflore – from 86-136

Johnson emphasized that the data currently available does not show whether detainees are awaiting trial, have yet to be indicted, are waiting for mental health evaluation or treatment, or have been convicted and are waiting to be transported to a state prison.

"At this point, we can only provide limited 'snapshots' of Mississippi's jail population at different points in time," Johnson said. "We urge the Mississippi Legislature to require the implementation of a uniform statewide system of reporting jail data that is available to the public and provides comprehensive real-time information about who is in our county jails and why. This tool would enable judges, lawyers, legislators, politicians, and the public to make informed decisions regarding how best to make certain that our criminal justice system is efficient and fair."

"Jail data available to everyone is a valuable tool in our struggle to reform the criminal justice system," said Andre DeGruy, State Defender for Mississippi. "Research shows that people who are in jail pretrial are more likely to get convicted and receive longer sentences for the same crimes as those who are not incarcerated pretrial. They are also more likely to need the services of a public defender than the person who can get out and go to work while awaiting trial."

Excessive pretrial detention strains every part of the system,” DeGruy said. “Being able to see who’s in jail and how long they have been serving allows us to shine a light on the dark places in our system and can facilitate error correction whether that means getting the person moved to state custody, a mental health facility or back home.”

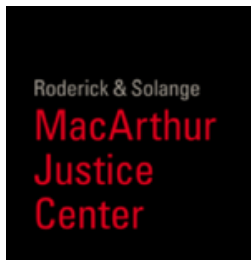
Dr. Gipsy Escobar, Director of Research at Measures for Justice in Rochester, New York, has reviewed the new database. Measures for Justice works across the country to develop a data-driven set of performance measures to assess and compare the criminal justice process from arrest to post-conviction on a county-by-county basis. Addressing data issues in Mississippi, Escobar commented, “The MacArthur Justice Center at the University of Mississippi School of Law has done tremendous work to collect jail data, literally by hand. Absent any other information about jails in Mississippi, this is the best we have. However, as MJC acknowledges, the data may not be uniformly collected or defined. Thus this terrific effort brings to the fore the urgent need for collecting uniform jail and local criminal justice data in Mississippi in pursuit of ever more reliable measurement.”

The PEER Committee (Joint Legislative Committee on Performance Evaluation and Expenditure Review) recently issued a report addressing the lack of comprehensive jail data in Mississippi and recommending that the Legislature create a uniform statewide system of reporting jail data. (<https://www.peer.ms.gov/Reports/reports/rpt625.pdf>). The report, referring extensively to the efforts of the MacArthur Justice Center, concluded that such information would assist policymakers in making economic decisions regarding incarceration.

“The extended imprisonment of thousands of Mississippians who have not been convicted of a crime is unacceptable,” Johnson said. “Rarely is any effort made to determine whether the release of these pretrial detainees would actually put the public at risk, and current pretrial incarceration practices cost Mississippi counties a fortune. We must reform this system that forces Americans to pay cash for their freedom and permits the government to lock people up for months before being formally charged with a crime and getting their day in court.”

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FOR IMMEDIATE RELEASE
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**NEW DATABASE REVEALS DISTURBING TRUTH
REGARDING LENGTHY PRE-TRIAL DETENTION IN MISSISSIPPI**
*Unprecedented Effort by MacArthur Justice Center at University of Mississippi School of Law
Provides Details on Thousands of Pre-Trial Detainees*

MISSISSIPPI – The MacArthur Justice Center at the University of Mississippi School of Law today made available to the public a comprehensive database identifying all persons detained in Mississippi’s county jails. The database, available at www.MSjaildata.com, provides the names of the more than 7,000 inmates in Mississippi’s local jails and includes the counties in which they are being held, the date of their arrest, the charges against them, and the total amount of time they have been in jail awaiting indictment, trial, or mental health evaluation.

The information comes from “jail rosters” obtained from Mississippi sheriffs through public records requests issued by the MacArthur Justice Clinic’s students. Under Mississippi’s recently-enacted Mississippi Rules of Criminal Procedure, Sheriffs now are required to produce these rosters so local judges can review the conditions of release for all bail-eligible felony defendants who have been in jail more than 90 days. Cliff Johnson, Director of the MacArthur Justice Center at UM Law, estimated that his students and staff spent more than 500 hours obtaining copies of the jail rosters and creating the database. “It should not be this hard to access information regarding who local counties have locked up, why they’re holding them, and how long they have been detained.” There is no uniformity in the way sheriffs across Mississippi maintain and report this data. “It took a Herculean effort by my students and our staff to make sure that people can, for the first time ever, go to a single source for this vitally important information.”

The database confirms that many Mississippians awaiting trial are held in jail for months, and over a year in some cases, before their cases are taken up by any court. A search of the database reveals that more than 3,700 people have been detained in Mississippi’s county jails for longer than 90 days, 2,200 for longer than 180 days, 1,200 for longer than 270 days, and 875 for longer than a year. Some of these already have been convicted and are being held in a county jail rather than a Mississippi prison, but a significant majority are pre-trial detainees. Johnson

says there is no one reason that criminal cases in Mississippi take so long to be resolved. He says that delays occur for different reasons in different counties, and that there is plenty of blame to go around. “In some cases, law enforcement officers have not completed their investigations in a diligent manner or are waiting for long-overdue results from the Mississippi Crime Lab. In other cases, defendants may be sitting for months or years waiting for a mental health evaluation or treatment. Sometimes judges and prosecutors do not push cases, and sometimes defense lawyers attempt to put off cases for as long as possible. The result of all this is that people sit in jail for months – people who are presumed innocent and have not yet had their day in court.”

The vast majority of those languishing in jail prior to trial are incarcerated because they cannot afford bail imposed by Mississippi judges. Therefore, it is overwhelmingly poor Mississippians unable to finance their freedom who are detained, at length, in county jails. The costs of detaining these people are borne by Mississippi’s 82 counties, and the State of Mississippi does not assume the financial burden unless or until there is a conviction. Johnson estimates that Mississippi counties pay more than \$100 million per year detaining people prior to their criminal trials. “Based on the number of inmates appearing on the lists produced by Mississippi sheriffs, and assuming a conservative daily incarceration rate of \$50 per day per inmate, we believe Mississippi counties collectively pay more than \$270,000 each day and \$100 million per year to incarcerate the people housed in their jails.”

Jackson civil rights and criminal defense attorney Rob McDuff noted additional consequences of the system, “Many of these people stuck in our county jails are not dangerous and will never be convicted, and some won’t even be indicted by a grand jury. Because of Mississippi’s system of lengthy pre-trial incarceration, innocent people can and will lose their jobs and their homes, and they have to start over with nothing when they return to their local communities. If they remain free pending trial, as is the case for the vast majority of people charged in the federal system, they will not suffer those terrible economic and social consequences.”

In addition to the MacArthur Justice Center, the Southern Poverty Law Center, ACLU, and Civil Rights Corps have successfully litigated cases in Mississippi challenging the bail practices of Mississippi judges. Those cases fought the imposition of bail without consideration of factors such as personal financial condition, flight risk, or danger to the community.

The importance of the database in continuing the fight against wealth-based detention has been acknowledged by others bringing civil rights cases in Mississippi. “Transparency is key,” said Sam Brooke, Deputy Legal Director of the Southern Poverty Law Center in Montgomery, Alabama. “So much of our pretrial detention is based on a simple inability to pay—jailing someone because they are poor. But often, robust public data is lacking. This new database will help provide that data and highlight where the biggest problems are, and allow advocates and judicial administrators to focus on commonsense solutions to ending discrimination based on poverty. This is an important step in helping Mississippi fix its two-tiered system of justice.”

Brandon Buskey, Senior Staff Attorney with the ACLU Criminal Justice Project in New York, added, “We need this badly, not only in Mississippi, but across the country. When we think of ‘indefinite detention without trial,’ places like Guantanamo Bay typically come to mind. This database shows that the same abuses are happening right here at home. It’s now time for the state of Mississippi to pick up where this critical database leaves off, and continue to make this data public.”

The MacArthur Justice Center asked the Mississippi Supreme Court to adopt a new rule as part of the recently-enacted Mississippi Rules of Criminal Procedure that would have limited the amount of time a person can be held in jail prior to a formal indictment, but the Court declined to do so. Johnson says they will continue to push for that reform. The Center also will ask the Mississippi Legislature to pass a bill next year requiring a uniform system for reporting Mississippi jail data and establishing a state-maintained, publicly-available database similar to the one created by the MacArthur Justice Clinic.

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